

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANDREW OTIKER,

Petitioner,

v.

WASHINGTON STATE,

Respondent.

CASE NO. 3:20-CV-6151-RSL-DWC

REPORT AND RECOMMENDATION

Noting Date: February 12, 2021

The District Court has referred this 28 U.S.C. § 2254 action to United States Magistrate Judge David W. Christel. Petitioner Andrew Otiker, proceeding *pro se*, filed a Proposed Petition for Writ of Habeas Corpus on November 24, 2020. Dkt. 1. The same day, the Clerk of Court sent Petitioner a letter notifying Petitioner that he failed to submit an application to proceed *in forma pauperis* or pay the filing fee. Dkt. 2. The Clerk of Court warned Petitioner that if he did not respond to the letter by December 24, 2020, the action may be subject to dismissal. *Id.*

Petitioner has not responded to the Clerk of Court's letter, has not paid the filing fee, and has not filed an application to proceed IFP. As Petitioner has failed to prosecute this case, the

1 Court recommends this case be dismissed without prejudice. Based on the foregoing, the Court  
2 also recommends denying a certificate of appealability.

3 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil  
4 Procedure, the parties shall have fourteen (14) days from service of this Report to file written  
5 objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those  
6 objections for purposes of appeal. *Thomas v Arn*, 474 U.S. 140 (1985). Accommodating the time  
7 limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on February  
8 12, 2021 as noted in the caption.

9  
10 Dated this 12th day of January, 2021.

11  
12 

13 David W. Christel  
14 United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24